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Josef Fuerlinger - December 3, 2004  
Examination by Mr. Cerski

10:21:36 1 A. I don't recall.  
10:21:37 2 Q. Did you ever visit Harley Davidson?  
20:21:41 3 A. On a private place, yes.  
10:21:46 4 Q. But for -- on behalf of Rotax?  
10:21:48 5 A. Never.  
10:21:52 6 Q. **And did Harley** Davidson ever visit Rotax?  
10:21:56 7 A. Rotax does not keep any records of  
  
10:22:18 8 visitors, nor have we any file where we kept it. So  
10:22:23 9 it's -  
10:22:24 10 Q. To the best of your knowledge.  
10:22:25 11 A. It's not possible for me to -- to verify it  
10:22:34 12 and not possible to verify within Rotax, so I don't  
10:22:39 13 know.  
10:22:40 14 Q. were you ever involved in a meeting or a  
10:22:43 15 tour of the facility or anything of that nature at  
10:22:48 16 Rotax with Harley Davidson?  
10:22:50 17 A. No.  
10:23:05 18 Q. Now, the next category of engines that you  
10:23:09 19 produce are industrial, and I believe in a previous  
10:23:13 20 deposition that I read of yours you had said that was  
10:23:18 21 fire pumps; is that correct still today, or during  
10:23:21 22 that time period, 1998 to 2002?  
10:23:26 23 A. This portion of Rotax is a very  
10:23:29 24 insignificant -- insignificant volume. There is  
10:23:34 25 still used for fire pumps, I think, so --

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10:23:38 1 Q. Any other type of applications that the  
10:23:40 industrial engines are used for?  
10:24:00 3 A. There are some of the -  
10:24:08 4 (Translator and witness confer in  
10:24:15 5 German)  
10:24:16 6 THE INTERPRETER: Industrial  
10:24:18 Lawnmower.  
10:24:20 8 Q. (BY MR. CERSKI): Any other applications for  
10:24:22 9 this?  
10:24:22 10 A. Not that I'm -- I'm aware.  
10:24:26 11 Q. And who -- what companies do you sell the  
10:24:30 industrial engines to?  
10:24:31 13 A. It's a European company which purchased at  
10:24:55 14 Rotax the  
-- for application in the  
10:25:00 industrial lawnmowers.  
10:25:01 16 Q- Okay. Do you know the name of the company?  
10:25:14 17 A. I don't recall,  
  
10:25:14 is Q. How about the fire pumps?  
  
10:25:20 19 A- This is a Canadian company which purchased  
10:25:26 20 at Rotax ex-works the -- this engine.  
10:25:33 21 Q- Do you know the name of that company?  
10:25:36 22 A. I don't recall the name.  
10:25:44 23 Q. okay. And the aircraft division -- I think  
10:26:01 24 -- just let my -- the rest of the outline get to

10:26:06 25 that because I think that I can pretty much cover the  
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10:26:10 1 aircraft division.  
10:26:12 2 The aircraft division is both  
10:26:13 3 certified and uncertified engines; is that correct?  
10:26:16 4 A. Rotax manufactures certified and  
20:26:19 5 non-certified aircraft engines.  
10:26:31 6 Q. Once you -- do you place any restrictions  
10:26:35 7 on your customers as to where they can sell the  
10:26:38 8 products that they incorporate Rotax engines into?  
10:26:52 9 MR. KELLY: I'm just going to object  
10:26:53 10 to the breadth of the question. I think it makes  
10:26:56 11 it -- if you can understand. If you can, just break  
10:27:00 12 it up.  
10:27:00 13 MR. CERSKI: Sure.  
10:27:01 14 (BY MR. CERSKI: Do you restrict  
10:27:02 15 Bombardier, Inc., on where it could sell its products  
10:27:05 16 that contain Rotax engines?  
10:27:15 17 A. No.  
10:27:18 18 Q. And any of your aircraft distributors, do  
10:27:22 19 you place any restrictions on them as to where they  
10:27:25 20 can sell the products -- well, the aircraft engines?  
10:27:27 21 Because they distribute the engines themselves.  
10:27:37 22 A. We do have with most of the authorized  
10:27:46 23 distributors for Rotax aircraft engines an agreement,  
10:27:49 24 and according to this agreement it's defined the  
10:27:56 25 products and the territory for which those are - and

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10:28:05 1 I mean the authorized distributors are --  
10:~8:07 2 responsible.  
10:28:08 3 MR. CERSKI: Okay. off the record for  
10:28:12 4 a minute, please.  
08:08:29 5 (Discussion off the record)  
10:28:47 6 Q. (BY MR. CERSKI: Now, does Rotax also sell  
10:28:50 7 replacement parts?  
10:28:53 8 A. The authorized distributor purchases spare  
10:29:04 9 parts at Rotax Gunskirchen, Austria, with those  
10:29:13 10 engines which are defined in the contract for the  
10:29:18 11 Rotax aircraft engines.  
10:29:19 12 Q. And how about your other -- your other  
10:29:23 13 customers, such as Bombardier, do they purchase spare  
10:29:26 14 parts?  
10:29:27 15 A. They purchase spare parts, yes.  
10:29:34 16 Q. And Harley Davidson?  
10:29:45 17 A. Yes.  
10:29:50 18 Q- Does -- Harley Davidson, did they purchase  
10:29:53 19 spare parts during the time frame 1998 to 2002?  
10:30:01 20 A. To the fact that I'm not involved in the  
10:30:46 21 direct sales administration, I personally don't know.  
10:30:52 22 Q- The purchase orders that we talked about  
10:30:54 23 earlier, they would cover the purchase of spare

10:30:57 24 parts?  
 10:30:57 25 A. They would cover it.

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10:30:58 1 Okay. And Aprilia and BMW, do they  
 10:31:04 2 purchase spare parts?  
 10:31:05 3 A. Yes.  
 10:31:25 4 Q. Let's talk a little bit about the governing  
 10:31:29 5 structure of Rotax. Do you understand my question?  
 10:31:35 6 A. Yes.  
 10:31:35 7 Q. Okay. Who runs -- and when I say "who," I  
 10:31:53 8 mean title, the person.  
 10:31:55 9 Who runs Rotax at the top on a  
 10:31:59 10 day-to-day basis?  
 10:32:03 11 MR. KELLY: Title.  
 10:32:04 12 THE WITNESS: Geschaetsfuehrer.  
 10:32:09 13 THE INTERPRETER: It's translated  
 10:32:11 14 either as manager director or as general manager.  
 10:32:21 15 Q\_ (BY MR. CERSKI).- And who was that person  
 10:32:23 16 during 1998 to 2002?  
 10:32:36 17 A. There have been certain changes in the  
 10:32:40 18 period of time.  
 10:32:41 19 Q\_ Okay. Can you tell me who -- I mean how  
 10:32:43 20 many changes?  
 10:32:53 21 A. By my recollection, three.  
 10:32:55 22 Q\_ Okay. Can you tell me who those three  
 10:32:57 23 people were?  
 10:32:57 24 A. Mr. Lucea, Mr. Lewis and Mr. Ploeckinger.  
 10:33:40 25 Q. Does this general manager report to

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10:33:43 1 someone?  
 10:33:57 2 A. What is the definition of "someone"?  
 10:33:59 3 Q. Okay. Does it -- does he or she have a  
 10:34:03 4 boss?  
 10:34:12 5 MR. KELLY: mean an individual?  
 10:34:13 6 Because -  
 10:34:14 7 MR. CERSKI: Yeah, I mean -  
 10:34:14 8 MR. KELLY: you already asked who  
 10:34:15 9 the top person was.  
 10:34:17 10 MR. CERSKI: I understand that.  
 10:34:19 11 Q\_ (BY MR. CERSKI): Well, I guess what I'm  
 10:34:20 12 asking is  
 10:34:21 13 MR. KELLY: Who does that person  
 10:34:22 14 report to?  
 10:34:23 15 Q\_ (BY MR. CERSKI) -- who do they report to?  
 10:34:25 16 Are they the end-all or do they report to someone  
 10:34:28 17 else, for example, someone at BRP, the division at  
 10:34:33 18 that time?  
 10:34:36 19 A. Rotax -- I mean Bombardier-Rotax GmbH is an  
 10:34:46 20 Austrian corporation fully under Austrian law and,  
 10:34:56 21 therefore, the general manage -

10:35:02 22 THE WITNESS: General managing  
 10:35:03 23 director? How do you say?  
 10:35:05 24 THE GENERAL MANAGER,  
 10:35:07 25 yeah.

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 Examination by Mr. Cerski

10:35:09 1 -- with the witness to a  
 10:35:12 2 supervisor report.  
 10:35:12 3 Q- Does the General Manager  
 10:35:20 4 report to the president of the Bombardier  
 10:35:24 5 Recreational Products division of Bombardier, Inc.?  
 10:35:32 6 A. the Austrian law he has the duty to  
 10:35:41 7 report to the supervisory board.

10:35:43 8 Q- Well, I understand that. But does he  
 10:35:46 9 report to Bombardier Recreational Products division  
 10:35:49 10 at Bombardier, Inc.?  
 10:36:06 11 A. As I said, Rotax is a fully independent  
 1-0:36:10 1.2 Austrian organization.  
 10:36:11 13 Q. That's not my question.  
 10:36:12 14 my question is: Does the general  
 10:36:16 15 manager report to the president of Bombardier  
 10:36:20 16 Recreational Products division at Bombardier, Inc.?  
 10:36:39 17 (Translator and witness confer in  
 10:36:42 18 German)  
 10:36:48 19 THE INTERPRETER: He -- lie asked what

1D:36:S3 20 the definition of the term "report," what it  
 10:36:56 21 involved. I think it's not a language problem;  
 10:36:59 22 it's -  
 10:37:01 23 MR. CERSKI: A definition problem.  
 10:37:02 24 THE INTERPRETER:  
 10:37:04 25 problem.

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10:37:04 1 Q- (BY MR. CERSKI): Okay. It's one of those  
 10:37:21 2 words that's so hard to define.  
 10:37:24 3 MR. KELLY: I'll just have to let you  
 10:37:28 4 work this one out on your own.  
 10:37:57 5 Q. (BY MR. CERSKI): Let me ask it this way:  
 10:38:01 6 Does the Bombardier Recreational Products division  
 10:38:05 7 president supervise the general manager of Rotax?  
 10:39:09 8 A. I don't know.  
 10:39:18 9 Q. Who hires the general manager of Rotax?  
 10:40:00 10 A. By my understanding the corporate structure  
 10:40:05 11 of Rotax, and I can only speak for Rotax itself, that  
 10:40:10 12 would be a decision by the shareholders.  
 10:40:34 13 Q- Does Bombardier, Inc., approve or  
 10:40:38 14 disapprove of the selection of the general manager of  
 10:40:41 15 Rotax?  
 10:40:50 16 A. I don't know.  
 10:42:23 17 Q. Okay. You spoke earlier of the supervisory

10:42:27 18 board for Rotax. Who is on that board?  
 10:42:32 19 A. I don't recall all the names because I'm  
 10:42:51 20 not a part of the supervisory board; therefore, I  
 10:42:55 21 have only a limited knowledge  
 10:42:57 22 Q. Okay. Can you give me the knowledge that  
 10:43:01 23 you do have?  
 10:43:02 24 A. There would be -- on the supervisory board  
 10:43:07 25 there would be unions, some external ex -- some

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10:43:14 1 external experts and some members of the  
 10:43:25 2 shareholders.  
 10:43:31 3 Q. When you say "members of the shareholders",  
 10:43:34 4 do you mean Bombardier, Inc.?  
 10:43:37 5 A. Correct.  
 10:43:46 6 Q. So earlier when you said that the  
 10:43:49 7 shareholders would select the general manager, you  
 10:43:54 8 meant that Bombardier, Inc., would select the general  
 10:43:57 9 management?  
 10:43:58 10 MR. KELLY: Object to form. You can  
 10:44:00 11 answer.  
 10:44:16 12 THE WITNESS: I never have been  
 10:44:19 13 involved in the selection of a general manager, so I  
 10:44:20 14 cannot answer the question. It would be the  
 10:44:23 15 appropriate way to ask the shareholder.  
 10:44:26 16 Q. (BY MR. CERSKI): Okay. Do you believe that  
 1.0:44:32 17 the supervisory board is knowledgeable about Rotax's  
 10:44:39 18 business?  
 1.0:44:39 19 A. Yes.  
 10:44:44 20 Q- Do you find the board to be authoritative  
 10:44:47 21 on matters that relate to Rotax?  
 10:44:49 22 A. Sorry. Can you break -it down, please.  
 10:44:51 23 Q- Sure. Do you find the board to be  
 10:44:55 24 authoritative on matters that relate to Rotax?  
 10:44:58 25 MR. KELLY: Object to form. what do

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10:44:59 1 you mean by "authoritative" it's  
 10:45:03 2 of a lot of different meanings, especially in  
 10:45:06 3 a legal context.  
 10:45:07 4 Q\_ (BY MR. CERSKI): Okay. What I mean is: Do  
 10:45:09 S they have -- let me ask it a different way.  
 10:45:31 6 Actually, I'll just switch on it altogether. Maybe  
 10:45:36 I'll come back to it. Let's talk **about the synergy**  
 10:45:45 8 between Rotax and Bombardier. Okay? That's what  
 1.0:45:49 9 this next part is going to cover.  
 10:45:53 10 You understand that Bombardier owns  
 10:45:57 11 at least at this time period -- Rotax?  
 10:46:02 12 MR. KELLY: Question?  
 10:46:03 13 Q. Do you understand that?  
 10:46:06 14 A. During this safe period from 1998 -

10:46:18 15 Q To 2002.  
 10:46:20 16 A. 2002, Bombardier, Inc., owned Rotax.  
 10:46:42 17 Q. And as the owner of Rotax, Bombardier,  
 10:46:49 18 Inc., is involved in the day-to-day operations of  
 10:46:53 19 Rotax, is it not?  
 10:46:56 20 A. No.  
 10:46:56 21 Q. So you do not agree that they have some  
 10:47:01 22 substantial control over how Rotax operates on a  
 10:47:05 23 day-to-day basis?  
 10:47:08 24 MR. KELLY: Object to form. You can  
 10:47:09 25 answer.

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10:47:10 1 THE WITNESS: I do not agree to  
 10:47:12 2 your -- sorry. They have no involvement on the  
 10:47:16 3 day-to-day business.  
 10:47:17 4 Q (BY MR. CERSKI): And when I refer to  
 10:47:22 5 "involvement," just so I'm clear, I'm talking about  
 10:47:26 6 policy, how things operate, not necessarily being out  
 10:47:29 7 on **the factory floor or**, you know, directing the  
 10:47:34 8 laborer how to produce something. I mean how the  
 10:47:37 9 business actually runs.  
 10:47:39 10 A. Sir, I have difficulties to understand your  
 10:47:41 11 questions because you ask some definitions in one  
 10:47:45 12 phrase, so it's not possible to answer them for me.  
 10:47:48 13 Q. What I was trying to do is I was trying to  
 10:47:52 14 clarify for you what I meant by "control," just so I  
 10:47:55 15 had a full understanding of your answer. And my  
 10:47:59 16 question is -- my definition is when I'm referring to  
 10:48:04 17 "control," I'm not just referring to -- let's take  
 10:48:10 18 that back.  
 10:48:10 19 When I refer to "control" and  
 10:48:11 20 "day-to-day operations," I'm not just referring to  
 10:48:15 21 producing the engine on the factory floor or dealing  
 10:48:19 22 with a labor union. I'm speaking about the policies  
 10:48:26 23 and the overall operation of Rotax. Do you  
 10:48:31 24 understand what the basis of my -- what I'm talking  
 10:48:34 25 about?

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10:48:35 1 MR. KELLY: Object to form.  
 10:48:37 2 MR. CERSKI: wasn't a question  
 10:48:38 3 yet.  
 10:48:39 4 MR. KELLY: yeah, you asked him  
 10:48:41 5 if he understood.  
 10:48:43 6 MR. CERSKI: Well, I -- he said he  
 10:48:43 7 didn't under -- I was asking it too broad, so I'm  
 10:48:45 8 just trying to have a dialogue with him to understand  
 10:48:50 9 what I mean by "control."  
 10:48:52 10 MR. KELLY: I think that he answered  
 10:48:53 11 the question a minute or two ago when he said that  
 10:48:56 12 there was no involvement, whatever it was that he  
 10:48:59 13 said. I don't think he had difficulty understanding  
 10:49:01 14 your question.

10:49:03 15 Q\_ (BY MR. CERSKI): Did you have difficulty  
 10:49:06 16 understanding my previous question, whether or not  
 10:49:08 17 there was any control over Rotax on a day-to-day  
 10:49:11 18 basis?  
 10:49:13 19 A. If I recall your question in a certain  
 10:49:14 20 sentence, you asked me did Bombardier, Inc., have  
 10:49:18 21 control in the day-to-day operations of Rotax, and I  
 10:49:22 22 said no.  
 10:49:24 23 Q. Okay. Let me show you a couple of  
 10:49:30 24 documents if I could.  
 10:49:40 25 MR. KELLY: Off the record.

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16:08:18 1 (Discussion off the record)  
 10:49:53 2 Q. (BY MR. CERSKI): This is marked as  
 10:49:54 3 Fuerlinger 1A, but it was previously marked as  
 10:49:58 4 Ferland 14.  
 10:50:19 5 THE COURT REPORTER: Can we go off the  
 10:50:20 6 record for a second.  
 10:50:21 7 (Discussion off the record)  
 10:51:07 8 MR. KELLY: Both counsel have  
 10:51:09 9 stipulated that until a final agreement is worked out  
 10:51:12 10 with regard to confidentiality, we will treat the  
 10:51:15 11 testimony and all the documents as confidential.  
 10:51:22 12 Work for you?  
 10:51:23 13 MR. CERSKI: That's fine.  
 10:51:24 14 (Discussion off the record)  
 1D:51:48 15 Q. (BY MR. CERSKI): Have you ever seen these  
 10:51:49 16 documents before, Mr. Fuerlinger?  
 10:51:52 1.7 A. No.  
 10:51:53 18 Q. No.  
 10:51:56 19 A. Unless today.  
 10:51:57 20 Q- so this is the first time you have seen  
 10:51:59 21 them?  
 10:51:59 22 A. Yeah.  
 10:52:00 23 Q. And these documents are Bombardier, Inc.'s,  
 10:52:07 24 policy manual?  
 10:52:09 25 MR. KELLY: Policy manual.

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10:52:10 1 Q. (BY MR. CERSKI): From my understanding.  
 10:52:13 2 THE INTERPRETER: Policy what?  
 10:52:15 3 MR. CERSKI: Manual.  
 10:52:16 4 MR. KELLY: Off the record, by my  
 10:52:17 5 recollection it doesn't appear to be all of it.  
 10:52:20 6 MR. CERSKI: Okay. That's fine.  
 10:52:24 7 MR. KELLY: Everything produced.  
 10:52:26 a MR. CERSKI: Yeah, excerpts.  
 10:52:26 9 MR. KELLY: Is there any rhyme or  
 10:52:27 10 reason to the excerpts, or is it a collection of  
 10:52:30 11 things you want to ask about?

10:52:32 12 MR. CERSKI: Yeah, I just have some  
 10:52:33 13 specific comments to see if -  
 10:52:38 14 Q. (BY MR. CERSKI): On the first page of this  
 10:52:44 15 one marked Simeone 00631, do you see the area that  
 10:52:51 16 says "scope"?  
 10:53:01 17 A. Yes, it says "scope" here.  
 10:53:03 18 Q- And can you read what it says.  
 10:53:06 19 A. "Applies to Bombardier, Inc., as a whole,  
 10:53:11 20 to each group, division and/or subsidiaries (Lhe  
 1.0:53:22 21 corporation.)"  
 10:53:26 22 Q. Is Rotax -- is Rotax within that definition  
 10:53:30 23 of the scope?  
 10:53:33 24 A. Yes.  
 10:53:34 25 Q. So any Bombardier, Inc., corporate office

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10:53:43 1 policy that has a similar scope would apply to Rotax?  
 10:53:49 2 MR. KELLY: Object to the form. To  
 10:53:50 3 the extent that it says what it says, he can answer  
 10:53:55 4 the question.  
 10:54:17 5 TRE WITNESS: I can only read what it  
 10:54:19 6 says here, so that's all that I can tell you here.  
 10:54:22 7 It says, "Applies to Bombardier, Inc., as a whole, to  
 10:54:26 8 each group, divisions and/or subsidiaries."  
 10:54:31 9 Q. (BY MR. CERSKI) can do this  
 10:54:39 10 quickly rather than getting bogged down in this.  
 10:54:47 11 policy regarding financial  
 10:54:49 12 statements starting with Simeone 631, this statement,  
 10:54:55 13 based on your previous testimony, would you  
 10:54:59 14 agree that this applies to Rotax?  
 10:55:23 15 A. I didn't read it. In total, the  
 10:55:32 16 documents, therefore, I cannot answer you these  
 10:55:35 17 questions. I would have to review the whole document  
 10:55:39 18 to come to a conclusion if it applies or in which  
 10:55:45 19 content it would be applicable for Rotax. Because  
 10:55:48 20 Rotax is an Austrian corporation. It has to fulfill  
 10:55:53 21 the obligation to the Austrian law; and, therefore,  
 10:55:55 22 maybe only an extract of this would be applicable to  
 10:56:02 23 the Austrian company.  
 10:56:02 24 Q- Okay.  
 10:56:03 2S A. So that is -- may be used as a guideline  
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10:56:09 1 for certain content to the Austrian -- to Rotax.  
 10:56:28 2 Q. well, with the caveat that you would have  
 10:56:32 3 to review the Austrian law to determine whether this  
 10:56:35 4 applies or not, based on the face of the policy  
 10:56:37 5 itself from Bombardier, this policy marked  
 10:56:41 6 Financial Statements apply to Rotax based on the  
 10:56:45 7 scope?  
 10:56:45 8 MR. KELLY: Object. You're  
 10:56:47 9 asking him to interpret or draw a conclusion from a



10:56:51 10 document that's -- that conclusion is fairly obvious  
 10:56:55 11 from the words that follow the term "scope." I don't  
 10:56:59 12 think it's necessary for him to draw that conclusion  
 10:57:03 13 for you. Because you could ask him that every  
 10:57:10 14 every one of those manuals which has a scope.  
 10:57:12 15 WeMR, CERSKI: why I asked  
 10:57:14 16 him -  
 10:57:1.4 17 He's agreed that Rotax is  
 10:57:16 18 a division or is owned -- has a shareholder that's  
 10:57:20 19 Bombardier, Inc., so beyond that you're drawing legal  
 10:57:23 20 conclusions.  
 10:57:24 21 TheMR! CERSKI: asked every  
 10:57:26 22 time I see "scope," does that mean that that policy  
 10:57:29 23 should be applicable to Rotax, and he said he can't  
 10:57:33 24 answer that, but I need to  
 10:57:35 25 go through and show him particulars in order to ask

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10:57:39 1 him the question.  
 10:57:41 2 MR. KELLY: Okay.  
 10:57:44 3 MR. CERSKI: I mean, I would like to  
 10:57:45 4 do it the short way if I can; but if I can't, then I  
 10:57:50 5 can't.  
 10:57:50 6 MR. KELLY: Okay. Off the record.  
 10:57:53 7 MR. CERSKI: Sure.  
 10:57:55 8 (Recess taken)  
 11:14:01 9 Q. (BY MR. CERSKI) I don't belabor this  
 11:14:05 10 too much further, I'm going to ask a repetitive  
 11:14:08 11 question just so I can clarify my understanding, and  
 11:14:11 12 then maybe ask a few follow-up questions and then get  
 11:14:14 13 off of this.  
 11:14:16 14 When we're referring to this scope  
 11:14:18 15 here on 631, is it your testimony that the way it's  
 11:14:26 16 written it does apply to Rotax unless there's some  
 11:14:29 17 Austrian law that would essentially trump this?  
 11:14:36 18 MR. KELLY: God luck with "trump."  
 11:14:38 19 MR. CERSKI: Yeah, sorry.  
 11:14:40 20 Q. (BY MR. CERSKI) That would essentially  
 11:14:41 21 supersede it.  
 11:14:55 22 A. I would say it would be used as a reference  
 11:14:59 23 document or a guideline for Rotax Austria and Rotax  
 11:15:02 24 has to follow their own procedure according to the  
 11:15:04 25 Austrian law.

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## Examination by Mr. Cerski

11:15:05 1 Q- Okay. Does Rotax have the Bombardier  
 11:15:14 2 policy manual?  
 11:15:36 3 A. Yes.  
 11:15:37 4 Q- And are there certain Bombardier policies  
 11:15:50 5 that because of Austrian law do not apply to Rotax?  
 11:15:55 6 A. That's **correct**.  
 11:15:56 Q. can you provide me with any of those  
 11:16:00 a policies that don't apply to Rotax?  
 11:16:04 9 MR. KELLY: Examples you mean?

11:16:07 10 Q. (BY MR. CERSKI) Examples, yes. I'm sorry.  
 11:16:09 11 A. Just as an example I would make the  
 11:16:13 12 traveling policy. Rotax has its own traveling  
 11:16:17 13 policies to comply with the Austrian law, system and  
 11:16:22 14 regulations.

11:16:22 15 Q. Any other examples that you can think of?  
 11:16:32 16 A. There might be some more. Because we have  
 11:16:38 17 a different working law as -- may be not as  
 11:16:42 18 accomplished. So we have to respect the working law  
 11:16:46 19 as -- for one thing, assessing the working law as one  
 11:16:48 20 very critical law, and there would be definitely a  
 11:16:53 21 different system and policy in place.  
 11:16:56 22 Q. Anything else that you can think of?  
 11:17:02 23 A. Not I'm recalling.

11:17:02 24 Q. Okay. I'm going to show you what is marked  
 11:17:31 25 as Exhibit No. 9 or Appendix 9. And --

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11:18:04 11:18:04 11: 18:07 11: 18:09 11:28:12 11:18:17 11:18:23 11: 11:18:04 11: 18:07 11: 18:09 11:28:  
 19:06 19:06 11: 19:08 11: 19:10 11: 19: 12 11: 19: 14 11: 19: 16 04 :04: 15 11: 19: 52 11:2 19:06 1  
 11:20:26

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20

Q.  
 quick.

21

11:20:27 22Q.

11:20:32 23

11: 2 0 :4 0 24  
 11 : 2 0 :4 6 2S

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MR. KELLY: Could we just get an identification for the record what it is.

MR. CERSKI: Sure. This is the Minutes of the Supervisory Board of Bombardier-Rotax held on March 20th, 2001. It's Bates stamped 2232 through 2245, and I am referring to Bates No. 2243 and 2244 under the category of "Other Business."

Q- (BY MR. CERSKI): I've highlighted a couple

of sections there.  
section.

If you can just read over that

MR. KELLY: Just for the record, I'll advise the witness to -- that lie doesn't have to limit himself to the highlighted portions.

MR. CERSKI: Oh, that's okay.

MR. KELLY: He can get comfortable with the document and the dialogue.

(Discussion off the record, and  
witness reads document.

le

(BY MR. CERSKI): Okay. Let me see it real

(witness complies)

(BY MR. CERSKI): So that T can get the players down, Mr. Ferland, he's a Bombardier, Inc employee? well, do you know Mr. Ferland? Yes.

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11:20:48	1	Q.	Yes, you know him?
11:20:49	2	A.	Yes.
11:20:50	3	Q.	And is he a Bombardier, Inc., employee?
11:21:00	4	A.	Yes.
11:21:00	5	Q-	Okay. And the Bombardier or Aerospace
11:21:09	6		Group that's referenced here, that's part of the
11:21:12	7		Bombardier entity, Bombardier corporate -
11:21:17	8		Bombardier, Incorporated? Actually, strike it. Let
11:21:23	9		me rephrase it.

11:21:24	10		Is the Aerospace Group a subsidiary
11:21:28	11		like Rotax is with regard to Bombardier?
11:21:30	22		MR. KELLY: Object to form. You can
11:21:32	13		answer.
11:21:33	14		THE WITNESS: No.

11:21:34	15	Q.	(BY MR. CERSKI) what is the
11:21:38	16	Aerospace	Group?

11:21:40	17	A.	By my definition Aerospace Group is
11:21:45	18		activities where -- complete aircraft for commercial
11:22:26	19		operations.

11:22:27	20	Q.	The Aerospace Group is not a part of
11:22:30	21	Bombardier-Rotax?	
11:22:31	22	A.	No.
11:22:31	23	Q.	Okay. Now, in the minutes here,

11:22:36	24		Mr. Ferland is saying that he was approached by the
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11:22:41	25		Aerospace Group to have Rotax -- the way I understand
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21:22:46 1 it --- facilitate the lease of a Lufthansa aircraft  
11:22:54 2 for Lauda Air. Is that your understanding?  
11:23:04 3 A. I can only read what the document says.  
11:23:07 4 That's -- the qDestination occurred whether

11:23:29 S Bombardier-Rotax could lease an aircraft from Lauda

11:23:33 6 Air and sublease it to Lufthansa.  
11:23:38 7 MR. KELLY: Reading from the document.  
11:23:40 8 THE WITNESS: Reading from the  
11:23:43 9 document.  
12:23:43 10 Q. (BY MR. CERSKI): Do you know if this  
11:23:44 11 occurred?

11:23:45 12 A. I don't k-know.  
11:23:45 13 Q. Okay. Is it a normal practice for Rotax to

11:24:13 14 sublease aircraft?  
11:24:17 15 A. No.  
11:25:06 16 Q. I'm going to show you what's marked as  
3-1:25:09 17 Puerlinger No. 11, which is the Supervisory  
Board  
11:25:12 18 Meeting Minutes from August 21st, 2001, Bates stamped  
11:25:17 19 2263 to 2272, with the caveat that there are  
11:25:27 20 attachments that are financial documents that I could  
-11:25:30 21 not print out and they could just wouldn't come out.  
11:25:36 22 My first question for you is --  
again,  
11:25:51 23 I'm referring to you to the highlighted portion, but  
12:25:53 24 if you need to read any of the text to get something  
11:25:57 25 in context, by all means, do that who is

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11:26:00 1 Mr. Burrell?

11:26:39 2 A. The President of the Recreational.  
11:26:45 3 Q. President of Bombardier Recreational  
11:26:46 4 Products Group?  
11:26:49 5 A. The Product Group.  
11:26:50 6 Q. And you see in that paragraph that I've

11:26:53 7 highlighted it refers to 4-tech. What is 4-tech?  
11:26:58 8 A. 4-tech stands for four-stroke engine  
11:27:06 9 technology.  
11:27:06 10 Q. And is that -- I mean, is 4-tech a proper

11:27:12 11 name, meaning -- well, do you understand what I mean

11:27:17 12 by "proper name?"  
11:27:19 13 (Interpreter interprets)  
11:27:24 14 MR. KELLY: Trade name.

11:27:26 15 MR. CERSKI: Yes, trade name.  
11:27:27 16 Exactly.

11:27:28 17 (Interpreter interprets)  
11:27:34 18 THE WITNESS: It is a trade name.

11:27:36 19 Q\_ (BY MR. CERSKI): And is the technology that  
 11:27:37 20 4-tech refers to patented?  
 11:27:58 21 (Interpreter interprets)  
 11:28:19 22 THE WITNESS: Yes.  
 11:28:20 23 Q\_ (BY MR. CERSKI): And who holds that patent?  
 11:28:26 24 A. Bombardier-Rotax GmbH, Austria.  
 11:28:29 25 Q\_ Okay. And the text of that, that

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11:28:35 1 highlighted portion that I'm referring to, seems to  
 11:28:38 2 be saying that there's some discussion or sharing of  
 11:28:44 3 information with regard to the 4-tech technology  
 11:28:47 4 and -- **I'm sorry, just let** me see this -- and stride  
 11:28:58 5 in its outboard application?  
 11:29:04 6 MR. KELLY: Question?  
 11:29:06 7 Q. (BY MR. CERSKI): Yeah. Do you know what  
 11:29:07 8 that means?

11:29:09 9 A. You don't mind if I read the complete -  
 11:29:12 10 Q. You read what you need to.  
 11:29:13 11 (Witness complies, and discussion off  
 11:29:13 12 the record)

11:30:56 13 Q. (BY MR. CERSKI): Do you know what that's  
 14 referring to?

11:31:00 15 A. Can you repeat the question again.  
 11:31:02 16 Q. Sure. When it's -- when it's referring to,  
 11:31:08 17 "for the time being but there is a project ongoing at  
 11:31:15 18 Rotax and our people over there for the adaptation of  
 11:31:18 19 the 4-tech engine that we just will stride in an  
 11:31:22 20 outboard application," what is outboard application?

11:31:33 21 Let me ask it a different way.  
 11:31:34 22 the outboard application referring  
 11:31:36 23 to the outboard division that Bombardier now has, the  
 11:31:40 24 OMC?  
 11:31:44 25 A. I can only read what the content is, and I

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11:31:47 1 was not part in the discussion, so I don't know  
 11:31:52 2 what -- in which content it was meant.  
 11:31:58 3 Q- Are you aware that Bombardier-Rotax is  
 11:32:00 4 trying to adapt the 4-tech engine for an outboard  
 11:32:06 5 application?  
 11:32:06 6 MR. KELLY: Object to form. You can  
 11:32:09 7 answer.  
 11:32:28 8 THE WITNESS: Yes.

11:32:28 9 Q. (BY MR. CERSKI): what will that  
 11:32:34 10 application be used on -- for -- strike that.  
 11:32:38 11 What's the purpose of adapting the  
 11:32:40 12 4-tech for an outboard application?  
 11:33:20 13 A. There could be many purposes to such.  
 11:33:23 14 Q. Who is it being adapted for?  
 11:33:28 15 A. There was a project, but it never  
 11:33:44 16 materialized into it~  
 11:33:45 17 Q. Okay. And for that project, who was the  
 11:33:48 18 project for?  
 11:33:52 19 MR. KELLY: Object to form. Answer  
 11:33:53 20 it.  
 11:34:12 21 THE WITNESS: The use of Rotax 4-tech  
 11:34:16 22 engines in an outboard marine application.  
 11:34:19 23 Q. (BY MR. CERSKI): does Rotax produce  
 11:34:20 24 outboard marine engines?  
 11:34:24 25 A. No.

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11:34:24 1 Q. Would they after it was adapted, the 4-tech  
 11:34:29 2 was adapted?  
 11:34:39 3 A. If we would find a customer for those  
 11:34:42 4 programs, we may would do it to produce such engine,  
 11:34:47 5 but it has never been materialized into any such  
 11:34:51 6 production.  
 11:34:51 7 Q. **Was this a project that was between**  
 11:34:56 8 Bombardier's OMC and Rotax?  
 11:35:24 9 When I refer to "OMC," do you  
 11:35:27 10 understand what I'm referring to?  
 11:35:33 11 A. No.  
 11:35:34 12 Q- Bombardier purchased I believe the outboard  
 11:35:37 13 motor aspect of Johnson and -- is it Evinrude?  
 1.1:35:43 14 MR. KELLY: Evinrude.  
 11:35:45 15 Q- (BY MR. CERSKI): Evinrude. And my question  
 11:35:47 16 is: When I'm referring to OMC, that's who I'm  
 11:35:52 17 referring to in the outboard motors.  
 11:35:54 18 And was this a project to adapt this  
 11:35:58 19 4-tech technology for those Bombardier companies?  
 1.1:36:16 20 A. You ask me too many questions at the same  
 11:36:18 21 time. Can -- as I said before, I was not part in the  
 11:36:41 22 supervisory board meeting, and I can only read out of  
 11:36:44 23 this content. There was the intent to use Rotax  
 11:36:51 24 engines, called 4-tech engines, maybe in other  
 1.1:36:57 25 applications such as outboard -- outboard applications

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11:37:00 1 as I mentioned here.  
 11:37:02 2 Q. But you testified also that you were aware  
 11:37:04 3 that there was a project going on with adapting the

11:37:07 4 4-tech technology.

11:37:08 5 A. Yeah. That was an internal Rotax project.

11:37:12 6 Q- No other participants?

11:37:17 7 A. I don't know. I am not involved in this

11:37:20 8 program -- program, so I don't know.

11:37:22 9 Q. Do you know who requested the projects?

11:37:30 10 A. No.

11:37:55 11 Q. I'm referring to 2272. I've highlighted

11:37:58 12 two paragraphs, but you may need to read a couple of

11:38:01 13 these paragraphs to get it in context.

11:39:18 14 (witness reads document)

11:39:28 15 Q- (BY MR. CERSKI) Polaris?

11:39:34 16 MR. KELLY: It's "Polaris."

11:39:36 17 Q. (BY MR. CERSKI), sorry.

11:39:39 18 A. Polaris is a manufacturer of products.

11:39:45 19 Q. Do they manufacture engines?

11:39:48 20 A. I don't know.

11:39:48 21 Q. How about Kawasaki?

11:39:52 22 MR- KELLY: What?

11:39:53 23 Q. (BY MR. CERSKI) Who were they -- no. Do

11:39:56 24 They manufacture engines?

11:39:59 25 A. I have never been to Kawasaki.

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Examination by Mr. Cerski

11:40:02 1 Q. Right. But are you familiar with Kawasaki?

11:40:06 2 A. I know the name, yes.

11:40:07 3 Q. And do you know what they do?

11:40:10 4 A. General knowledge, motorcycling.

11:40:18 5 Q. And do you know if they also produce

11:40:21 6 engines?

11:40:22 7 A. As I said, I have never been. If they have

11:40:25 8 it in-house or not in-house, I don't know.

11:40:29 9 MR. KELLY: Off the record.

11:40:30 10 MR. CERSKI: Yeah.

16:08:18 11 (Discussion off the record).

11:40:45 12 Q. (BY MR. CERSKI): Do you know what Ficht

11:40:47 13 injectors are?

11:40:51 14 A. In general, yes.

11:40:53 15 Q. Does Bombardier-Rotax use Ficht injectors?

11:40:59 16 A. No.

11:40:59 17 Q. And what product do you use that

11:41:02 18 substitutes for that?

12:41:04 19 MR. KELLY: object to form.

11:41:09 20 Q. (BY MR. CERSKI) you use a product  
 11:41:11 22 instead of Ficht?  
 1-1:41:17 22 A. Yes.  
 11:41:18 23 Q. What's the name of that?  
 1-1:41:19 24 A. We have an Orbital system and Siemens VDO  
 11:41:4S 25 system on the two-stroke engines.

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Examination by Mr. Cerski

11:41:51 1 Q. And who is Mr. Poetzlberger?  
 11:42:13 2 A. The chairman of the supervisory board of  
 11:42:15 3 Rotax.  
 11:42:15 4 Q- Of Rotax. And the chairman is asking if

laris got some engines from OMC; and Mr. Burrell,

11:42:26 6 the President of the Bombardier Recreational Group,  
 11:42:30 7 then goes on to say that we're supplying them the  
 11:42:35 8 Ficht injectors and controls for their PWC, personal  
 11:42:41 9 water craft application, and we do the same with  
 11:42:43 10 Kawasaki. Those contracts were already established  
 11:42:48 11 formerly with OMC so that when we acquired, we took  
 11:42:52 12 over those contracts. We could not have decided to  
 11:42:55 13 supply them -- could not have decided not to supply  
 11:42:58 14 them but we increased the prices for a reasonable  
 11:43:02 15 number.  
 11:43:03 16 Is it normal for Rotax to learn of

11:43:09 17 the -- the pricing of contracts of competitors?  
 11:43:14 18 A. No.  
 01:01:01 19 (Discussion off the record)  
 11:46:00 20 Q- (BY MR. CERSKI): I'm going to show you

11:46:02 22 what's marked Fuerlinger 13. It's Bates document

11:46:05 22 2307 to 2308, and it's Rotax minutes from the  
 11:46:09 23 supervisory board from the 18th of 2000 (sic). And  
 11:46:16 24 for this purpose if maybe you would just read the  
 11:46:19 2S highlighted portion first and then let me ask my

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Examination by Mr. Cerski

11:46:21 1 question, and then if you need to go back -  
 11:46:38 2 (Witness reads document)  
 11:46:39 3 Q. (BY MR. CERSKI): Do you know what -- do you  
 11:47:55 4 have any knowledge with regard to the loan that  
 11:47:58 5 they're referencing here?

11:48:00 6 A. No.  
 11:48:00 7 Q. So before reading this today, you were not  
 11:48:02 8 aware of this loan?  
 11:48:03 9 A. No.



11:48:04 10 Q- Are you aware of loans in general that  
 11:48:07 11 Rotax makes to Bombardier entities?  
 11:48:11 12 A. No.  
 11:48:28 13 Q. Are you aware of any other loans that Rotax  
 11:48:31, 14 has made to any entity?  
 11:48:33 15 A. No.  
 11:49:03 16 Q. I'm going to refer to what's marked as  
 11:49:05 17 Fuerlinger 14, and it's the Supervisory Board Minutes  
 1.2:49:09 18 of August 22nd, 2000, and Bates numbers 2320 to 232S.  
 11:49:38 19 Okay. I'm going to point you to some  
 11:49:41 20 highlighted sections. You can review those and the  
 11:49:44 21 others for context.  
 11:50:22 22 (Witness reads document, and  
 11:50:23 23 discussion off the record)  
 11:51:03 24 Q- (BY MR. CERSKI): Do you have knowledge  
 11:51:12 25 about this new V-6 engine?

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11:51:16 1 A. Yes.  
 11:51:18 2 Q- And this was -- the development of this  
 11:51:23 3 engine took place in the aircraft engine sector; is  
 11:51:26 4 that correct?  
 11:51:30 5 A. Partly.  
 11:51:31 6 Q- Was that your section as the vice  
 11:51:34 7 president?  
 11:51:35 8 A. Yes.  
 11:51:38 9 Q. And Mr. Lewis you said is the general  
 11:51:40 10 manager of Rotax, is that correct?  
 11:51:48 11 A. He was at one time the general manager of  
 11:51:52 12 Rotax.  
 11:51:59 13 Q. And the discussion that is had -- that is  
 11:52:04 14 being taken place in this section is whether or not  
 11:52:08 15 to make a separate business unit for this v-6 engine.  
 11:52:13 16 Were you aware of this type of discussion?  
 11:52:16 17 A. Yes.  
 11:52:19 18 Q- And Mr. Poetzlberger in this board meeting,  
 11:52:30 19 we said earlier he's the Chairman of the Board?  
 11:52:34 20 A. He's the Chairman of the Board of  
 11:52:36 21 Bombardier-Rotax.  
 11:52:37 22 Q- And the chairman of the Board said that I  
 11:52:41 23 don't think a new company should be founded so as to  
 11:52:44 24 avoid additional formalities, et cetera, and then  
 11:52:49 25 Mr. Lewis said, "We will make this decision depending

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11:52:53 1 on corporate office."  
 11:52:55 2 What corporate office are they  
 11:52:57 3 referring to?  
 11:52:57 4 A. That's the Bombardier, Inc.

11:53:02 5 Q. And this V-6 engine was a Rotax product?  
 11:53:08 6 A. Is a Rotax product.  
 11:53:11 7 Q- Do you based on your knowledge of the  
 11:53:20 8 control that Bombardier has or does not have over  
 11:53:24 9 Rotax, do you find it surprising that the decision as  
  
 12:53:31 1.0 to whether or not to separate the V-6 product out as  
 11:53:37 11 a separate business would be a decision depending on  
 11:53:40 12 the corporate office?  
 11:53:41 13 MR. KELLY: Object to form. You. can  
 11:53:45 14 answer.  
 11:53:54 15 THE WITNESS: Rotax is making  
 11:53:57 16 their own decision. Up to a certain limitation which  
 11:54:02 17 is beyond, then we have to inform then the -- in that  
 11:54:10 18 case we create a new identity, the corporate office  
 11:54:16 19 as the shareholder.  
  
 11:54:21 20 Q. (BY MR. CERSKI) Do there are things that  
 11:54:23 21 the board of supervisors can't do without the  
  
 11:54:26 22 approval of the corporate office?  
 11:54:27 23 MR. KELLY: Object to form.  
 11:54:29 24 THE WITNESS: What I said is the  
 11:54:37 25 supervisory board will make the decision as there is  
  
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11:54:42 1 the shareholder also represented, and they will  
 11:54:52 2 determine for Rotax if we could do it or not.  
  
 11:54:56 3 Q. (BY MR. CERSKI) Did the corporate  
 11:54:58 4 office decide in this case whether or not to separate  
 11:55:00 5 the V-6 product out as a separate business unit?  
  
 11:55:09 6 A. The -- the project did not materialize  
 11:55:14 7 because after this board meeting -- and I think it  
 11:55:19 8 was in late 2002 -- the economics have been changed  
 11:55:35 9 and the project delayed, so it did not materialize.  
  
 11:55:46 10 Q- Just to be clear, to separate a part of  
 11:55:51 11 Rotax's business out as a separate business unit, the  
 11:55:55 12 corporate office would have to make that decision?  
  
 11:56:01 13 A. Well, Rotax can -- Rotax can do the  
 11:56:05 14 decision if we separated out of it, but we would need  
 11:56:09 15 to inform the supervisory board and the supervisory  
 11:56:12 16 board with the shareholders present.  
  
 11:56:15 17 Q- Okay. Well, I'm a little confused, though,  
 11:56:20 18 because Mr. Lewis is stating we will make this  
 11:56:23 19 decision depending on the corporate office.

11:56:26 20 And I'm just -- I'm trying to  
 11:56:29 21 determine whether or not Rotax makes the decision or  
 11:56:32 22 whether Bombardier makes the decision?  
 11:56:34 23 MR. KELLY: object to the form.  
 11:56:48 24 THE WITNESS: By my understanding as a  
 11:56:50 25 Rotax employee, we have our own supervisory board

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11:56:54 which will make the decision for Rotax in Austria.  
 11:57:22 2 Q- (BY MR. CERSKI): Okay, to ask  
 11:57:24 3 you one other question, or maybe two.  
 11:57:29 4 Mr. Lewis is telling the president of  
 11:57:35 5 the supervisory board that in this particular  
 11:57:37 6 instance with regard to this V-6 -- the discussion  
 11:57:40 7 that they're having -- we will make this decision  
 11:57:43 8 depending on the corporate office; is that correct?  
 11:57:45 9 MR. KELLY: You mean is that what it  
 11:57:47 10 says?  
 11:57:47 11 Q. (BY MR. CERSKI): Yeah. Is Mr. Lewis  
 11:57:50 12 responding to the Chairman of the Board's statement?  
 11:57:53 13 MR. KELLY: Okay. I'll just object on  
 11:57:55 14 the basis that he wasn't in attendance in the  
 11:58:00 15 meeting; that he can't determine the minutes any  
 11:58:03 16 better than anybody else in the room. With that he  
 11:58:06 17 can answer.  
 11:58:07 18 THE WITNESS: I think the --  
 11:58:11 19 Mr. Poetzlberger as the chairman of the supervisory  
 11:58:15 20 board made it very clear that he is not in agreement  
 11:58:18 21 (sic) with this strategy to avoid any additional  
 11:58:24 22 formalities, et cetera; and since I think -- when I  
 11:58:28 23 interpret the statement of Lewis, he was checking  
 11:58:31 24 this with the corporate office if this would be an  
 11:58:35 25 additional strength of what additional formalities or

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11:58:40 1 not.  
 11:58:43 2 Q- (BY MR. CERSKI): reason to  
 11:58:52 3 doubt what Mr. Lewis said here, do you?  
 11:58:55 4 A. sorry?  
 11:58:56 5 Q. You have no reason to doubt what Mr. Lewis  
 11:58:59 6 said here?  
 11:59:01 7 A. I can only read what -  
 11:59:03 8 MR. KELLY: Object to form. Go ahead.  
 11:59:04 9 THE WITNESS: I can only read what

11:59:06 10 this is saying. I was not participating in this  
 11:59:09 11 meeting.  
 11:59:10 12 Q. (BY MR. CERSKI): okay. This is board  
 11:59:30 13 minutes of November 17th, 1987, Bates stamped 2455  
 11:59:34 14 through 2463.  
 16:08:18 15 (Discussion off the record)  
 12:00:15 16 Q- (BY MR. CERSKI): You're going to definitely  
 12:00:17 17 need to read more of this for context, but the  
 12:00:20 18 question I'm going to have for you is with regard to  
 12:00:22 19 the highlighted sections. 2461 to 2462 is the area  
 12:00:28 20 I'm referring to.  
 12:00:29 21 (Witness reads document, and  
 12:00:30 22 discussion off the record)  
 12:00:42 23 MR. CERSKI: This is Exhibit 19.  
 01:01:01 24 (Discussion off the record)

12:03:03 25 Q- (BY MR. CERSKI): for you, sir,

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12:03:10 12:03:10 12:03:10 12:03:10 12:03:10  
 12:03:14 2 we shall not be asked  
 12:03:15 3 whether or not we can afford an engine development  
 12:03:23 4 for Ski-Doo/Sea-Doo. we shall simply be required to  
 12:03:44 5 do it, why is that?  
 12:03:55 6 MR. KELLY: Object to the form.  
 12:03:57 7 THE WITNESS: As I said before, I was  
 12:04:04 8 not part in the supervisory board, so I -- I  
 12:04:07 9 cannot -- I don't know what the discussion was in  
 12:04:10 10 detail about.  
 12:04:12 11 (BY MR. CERSKI): Okay. Well, let me ask a  
 12:04:15 12 couple more questions. Let me have this back. I'm  
 01:01:01 13 sorry.  
 12:04:22 14 (witness complies)  
 12:04:24 15 (BY MR. CERSKI): In general, if you can't  
 12:04:38 16 afford an engine development, do you do it?  
 12:04:43 17 ANo, unless it's from a strategic  
 12:04:43 17 importance.

Q. And then you may take a loan or something  
 12:04:46 18 before to be able to afford to do it?  
 12:04:49 19 A. Whatever would be required.  
 12:04:52 20 So if BMW asked you to do some type of an  
 12:04:56 21 engine development and you couldn't afford to do it,  
 12:05:02 22 would you do it?  
 12:05:03 23 MR. KELLY: Object to the form. Calls  
 12:05:07 24 for speculation answer.  
 12:05:07 25

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12:05:44 1 THE WITNESS: No.  
 12:05:46 2 Q. (BY MR. CERSKI): And the person making the  
 12:05:48 3 statement that I highlighted is Mr. Lucea and -- let  
 12:05:59 4 me just see -- he was the manager director in 1997;  
 12:06:12 5 that's correct?  
 12:06:13 6 A. That's correct.  
 12:06:13 7 (Discussion off the

record, and recess  
 12:06:36 8 taken)  
 12:09:22 9 Q. (BY MR. CERSKI): Fuerlinger No. 9, minutes  
 12:09:26 10 of March 20th, 2001, Bates stamped  
 2232 to 2245. I'm  
 12:09:42 11 going to point you to two areas that are highlighted  
 12:09:46 12 here. My questions are  
 fairly broad, so I don't  
 12:09:49 13 think you're going to have to read it through for  
 12:09:52 14 context; but if you do, feel free.  
 12:09:55 15 I'm going to point  
 you to on 2235,  
 12:09:57 16 Poetzlberger and Burrell.  
 12:10:47 17 (Witness reads  
 document)  
 12:10:49 18 Q. (BY MR. CERSKI): And my first question is:  
 12:10:50 19 Mr. Poetzlberger, the chairman of the board, is  
 12:10:55 20 asking whether a draft contract for the snowboard  
 12:10:59 21 business has been approved by the corporate office,  
 12:11:01 22 and it says yes.  
 12:11:02 23 Now, my specific  
 question is: Is that  
 12:11:07 24 a Rotax contract that Mr. Poetzlberger is asking  
 12:11:13 25 Mr. Burrell has been approved by the corporate

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12:11 12: 11 12: 11 12:11 12: 11 12: 11 12: 11 12: 11 12:

12:13 12: 13 12:13 12: 13 12:13 12: 13 12:

12:13 12:

12 :13

17 :2 2 :22 -26 :26 :2 6 :2 9 :2 9 11: 3 2 05 07 11 22 3 4 38

:13

:4 4 :4 6 13 :4 7 :51

12: 14 :01 :01 : 04

12: 14 12:14

12:14 :0 9 14: 13

12 :

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of f ice? A . business.

Q -products?

A. No.

Q. A .

Q.

Rotax is not involved in the snowmobile

But does it make engines for snow grooming

It does not?

(Witness shakes head.)

Does Rotax have to have corporate office-approved contracts? A. Q\_

I don't know.

Do you know whether the corporate office approved the BMW contract between BMW and Rotax? MR. KELLY:  
Object to the form. THE WITNESS: The contract between BMW Germany and Rotax Austria is a contract between the two  
companies here.

Q\_ (BY MR. CERSKV: I understand that. My question was: Was a draft sent to Bombardier for approval before it was  
executed?

I don't know.

How about the distributor contracts that you oversaw as vice president of aircraft engines, were those contracts  
with you -- with Bombardier before being entered into?

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Examination by Mr. Cerski

12:14:17

1

A.

Not by my knowledge.

12:14:41

2

Q-

Who would have knowledge of that, whether

1-2:14:45

3 Bombardier approves or has to approve draft contracts

12:14:50

4 that Rotax is about to enter into?

12:15:02

5

A.

You're talking about the distributor

12:15:04

6

agreement with certain authorized distributors for

12:15:08

7

aircraft engines?

12:15:09 8 Q. Well, we can use that one as an example,  
 12:15:12 9 but I'm also referring to the one with BMW, this one  
 12:15:17 10 with the snow grooming engines, any con -- my  
 12:15:21 11 question is more broad. It's pretty much any  
 12:15:24 12 contract.  
 12:15:24 13 Who would have knowledge whether Rotax  
 12:15:27 14 has to get approval. from Bombardier with regard to  
 12:15:30 15 contracts that it's about to enter into?

12:16:21 16 A. In the normal course of business of Rotax,  
 12:16:23 17 we would not need inform Bombardier, Inc., unless  
 12:16:37 18 it has a significant impact to the shareholders.  
 12:16:47 19 Q. And how is a significant impact determined?  
 12:18:16 20 A. In regards to the financial profitability  
 12:18:22 21 which Rotax has been committed to deliver to the  
 12:18:27 22 shareholders.  
 12:18:30 23 Q- Okay. So when Rotax entered into a  
 12:18:35 24 contract with Aprilia and BMW to produce certain -- a  
 12:18:42 25 certain engine for these motorcycles, was that of

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 Examination by Mr. Cerski

12:18:46 1 significant importance that Bombardier would need to  
 12:18:51 2 he involved in the contract?  
 12:19:04 3 A. By my recollection we don't have any  
 12:19:07 4 contract with Aprilia.  
 12:19:08 5 Q. okay. Focus then just on BMW.  
 12:19:15 6 With regard to BMW, was it significant  
 12:19:21 7 enough that you would have had Bombardier approve the  
 12:19:28 8 contract?  
 12:19:28 9 A. Sorry. Can you repeat that. I did not get  
 12:19:31 10 your last sentence.  
 12:19:32 11 Q. Sure. was it significant enough for BMW -  
 12:19:37 12 was the contract between Rotax and BMW of such  
 12:19:41 13 significance that Bombardier would need to be  
 12:19:44 14 involved and approve the contract?  
 12:20:29 15 A. Not that I'm recalling.  
 12:20:52 16 Q. Were you involved in the contract between  
 12:20:55 17 Rotax and BMW?  
 12:20:57 18 A. No.  
 12:20:59 19 Q. Have you been involved in negotiating  
 12:21:06 20 contracts that had to be approved by Bombardier?  
 12:21:14 21 A. No.  
 12:21:15 22 Q. Is there a person at Rotax that would have  
 12:21:21 23 direct knowledge as to whether or not contracts need  
 12:21:24 24 to be approved by Bombardier?  
 12:22:33 25 A. We don't have such a person.